



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: OCTOBER 12, 2022

IN THE MATTER OF:

Appeal Board No. 624609

PRESENT: GERALDINE A. REILLY, MEMBER

In Appeal Board Nos. 624607, 624608, and 624609, the Commissioner of Labor appeals from the decisions of the Administrative Law Judge filed April 6, 2022, 2021, which overruled the initial determinations disqualifying the claimant from receiving benefits, effective April 17, 2020, on the basis that the claimant refused an offer of suitable employment without good cause; charging the claimant with an overpayment of \$6,928.50 in regular unemployment insurance benefits recoverable pursuant to Labor Law § 597 (4); charging the

claimant with an overpayment of Federal Pandemic Unemployment Compensation of \$9,000 recoverable pursuant to Section 2104 (f)(2) of the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020; charging the claimant with an overpayment of Pandemic Emergency Unemployment Compensation of \$362.00 recoverable pursuant to Section 2107 (e)(2) of the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020; and reducing the claimant's right to receive future benefits by eight effective days and charging a civil penalty of \$1,039.27 on the basis that the claimant made a willful misrepresentation to obtain benefits

At the combined hearing before the Administrative Law Judge, testimony was taken. There was an appearance by the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. The notice of hearing and the combined decisions were sent to an incorrect address for the employer's attorney ("1033" Broadway instead of "1633" Broadway). In the interest of justice, the employer should have another opportunity to appear and to provide testimony and evidence regarding an offer

of employment to the claimant. The parties should be questioned regarding how and when the offer was made, whether it contained a start date and pay rate, and a job description. The employer should produce any written offer and the document should be entered into the record in the usual manner. The employer should be given the opportunity to cross-examine the prior testimony given by the claimant. The parties may also produce any other relevant witnesses and documents. The Administrative Law Judge should also take any additional testimony and evidence necessary to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render new decisions which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

GERALDINE A. REILLY, MEMBER